

Senate File 325 - Introduced

SENATE FILE 325

BY SMITH

A BILL FOR

1 An Act requiring certain arrested persons to make an initial
2 appearance before a magistrate prior to release from
3 custody.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 804.21, subsection 1, Code 2017, is
2 amended to read as follows:

3 1. A person arrested in obedience to a warrant shall be
4 taken without unnecessary delay before the nearest or most
5 accessible magistrate. The officer shall at the same time
6 deliver to the magistrate the warrant with the officer's return
7 endorsed on it and subscribed by the officer with the officer's
8 official title. However, [this section](#), and [sections 804.22](#)
9 and [804.23](#), do not preclude the release of an arrested person
10 within the period of time the person would otherwise remain
11 incarcerated while waiting to be taken before a magistrate
12 if the release is pursuant to pretrial release guidelines or
13 a bond schedule promulgated by the judicial council, unless
14 the person is charged with manufacture, delivery, possession
15 with intent to manufacture or deliver, or distribution of
16 methamphetamine, or is charged with a criminal offense that
17 includes the use of a firearm as an element of the offense.
18 If, however, a person is released pursuant to pretrial release
19 guidelines, a magistrate must, within twenty-four hours of
20 the release, or as soon as practicable on the next subsequent
21 working day of the court, either approve in writing of the
22 release, or disapprove of the release and issue a warrant for
23 the person's arrest.

24 Sec. 2. Section 804.22, subsection 2, Code 2017, is amended
25 to read as follows:

26 2. [This section](#) and the rules of criminal procedure do
27 not affect the provisions of [chapter 805](#) authorizing the
28 release of a person on citation or bail prior to initial
29 appearance, unless the person is charged with manufacture,
30 delivery, possession with intent to manufacture or deliver, or
31 distribution of methamphetamine, or is charged with a criminal
32 offense that includes the use of a firearm as an element of the
33 offense. The initial appearance of a person so released shall
34 be scheduled for a time not more than thirty days after the
35 date of release.

1 Sec. 3. Section 811.2, subsection 3, Code 2017, is amended
2 to read as follows:

3 3. *Release at initial appearance.* This chapter does not
4 preclude the release of an arrested person as authorized
5 by section 804.21, unless the arrested person is charged
6 with manufacture, delivery, possession with the intent to
7 manufacture or deliver, or distribution of methamphetamine, or
8 is charged with a criminal offense that includes the use of a
9 firearm as an element of the offense.

10 Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection
11 3, shall not apply to this Act.

12	EXPLANATION
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13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill requires certain arrested persons to make an
16 initial appearance before a magistrate prior to release from
17 custody.

18 Current law provides that most persons arrested when court
19 is not in session who would otherwise remain incarcerated
20 while waiting to be taken before a magistrate for an initial
21 appearance during the next court session may be released from
22 custody pending an initial appearance before a magistrate
23 pursuant to pretrial release guidelines, or post a bond and
24 be released pursuant to a bond schedule promulgated by the
25 judicial council.

26 The bill requires that a person arrested when court is not
27 in session, and who is charged with a criminal offense that
28 includes the use of a firearm as an element of the offense,
29 shall not be released from custody on pretrial release or be
30 eligible to post a bond and be released pursuant to the bond
31 schedule promulgated by the judicial council until the person
32 makes an initial appearance before a magistrate.

33 The bill may include a state mandate as defined in Code
34 section 25B.3. The bill makes inapplicable Code section 25B.2,
35 subsection 3, which would relieve a political subdivision from

1 complying with a state mandate if funding for the cost of
2 the state mandate is not provided or specified. Therefore,
3 political subdivisions are required to comply with any state
4 mandate included in the bill.